

REMARKS

Applicant responds to the Examiner's election requirement as follows and also amends the claims as set forth above.

The Examiner has identified the application as containing claims directed to two (2) distinct species. The Examiner has required the Applicant to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted. The Examiner believes claim 1 is generic. Applicant has been advised that a response to this requirement shall include an identification of the species that is elected and a listing of all claims readable thereon.

In response to the Examiner's requirement, Applicant elects with traverse Species A, Figures 1, 1A for examination on which claims 1-7, 9-10 are readable.

Applicant respectfully traverses the Examiner's restriction requirement and request full examination of all the pending claims on the merits.

One criteria for a proper election of species requirement is that there must be a serious burden on the Examiner if restriction is not required. *See, e.g.*, MPEP §803, §806.04(a)-(i) ("If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to independent and distinct inventions"). Additionally, as stated in MPEP 806.04(a), "37 C.F.R. §1.141 provides that a reasonable number of species may still be claimed in one application." It is respectfully submitted that there is no serious burden on the Examiner to examine all the claims together.

Applicant respectfully submits that there is no undue burden on the Examiner to examine the subject matter of all the pending claims. Indeed, the Examiner has not set forth how it is now an undue burden to continue to examine the subject matter of all the pending claims together. In

particular, the Examiner has not set forth how it is now an undue burden to continue to examine both claim 7, which recites a ring made of metal, and claim 8, which recites a ring made of plastic. Applicant submits that the Examiner will, no doubt, search the same art sources when examining either claim.

Restrictions are not to be made solely because it is possible, but rather for the efficient and timely handling of an application in accordance with the principle of compact prosecution. It is respectfully submitted that the restriction requirement is not in accordance with the principle of compact prosecution.

To be sure, under U.S. patent practice, more than one species of an invention, not to exceed a reasonable number, generally may be specifically claimed in different claims in a single national application. Clearly a “reasonable number” of species must include at least two.

For the above reasons, it is respectfully submitted that the restriction requirement is improper. Applicant requests that the restriction requirement be reconsidered and withdrawn and request full examination of all the pending claims on the merits.

Applicant reserves the right to file a Divisional Application directed to any or all non-elected claims.

Response to Election of Species and Amendment
U.S. Application No. 10/088,050

Attorney Docket No.: Q68978

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



Raja Saliba
Registration No. 43,078

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE

23373

CUSTOMER NUMBER

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